

Probate Conservatorship Task Force Public Hearing

Thank you for allowing me to share with you the following remarks. I will try to keep them brief and to the point. I apologize in advance for any errors of fact or omissions in what you are about to hear. My experience is largely with the Riverside County Office of the Public Guardian/Public Conservator, and there really was not a great deal of time to check all of what I perceive to be facts with a substantial number of my colleagues. What I offer is the truth to the best of my knowledge.

I have been invited to provide information in what I conceive to be three reasonably distinct areas: providing protection to, and deterring and preventing abuse of, probate conservatees; improving collaboration with the courts; and improving the conservatorship system. I will address each in turn.

I believe a number of things could be done to better protect conservatees.

1. Fund the court system and Public Guardian/Public Conservator (hereafter, PG) offices at a level that will allow the courts to do what they are already supposed to do and will allow PG offices to be staffed at a level that makes it possible for them to see clients more frequently and consistently, and allows them to scrupulously follow safeguarding policies already in place. Both the courts and PG offices are obviously and severely underfunded.
2. Revamp accounting procedures to require more detailed information from conservators. With current schedules, it apparently can be difficult for the courts to determine exactly what has happened to funds and why.
3. Provide resources to better train prospective conservators, including PG staff. On the private side, in my eight years with the PG's office, I did not witness even one case of an in pro per probate conservatorship that went through without delays that were due to a failure on the part of the lay person to comply fully with the legal requirements. It is a complex system, difficult for individuals to navigate, and costly if they have to hire an attorney. Better training on the legal process as well as the responsibilities of the conservator would reduce the burden on the courts and possibly on the PGs as well. On the public side, there is a state association of public guardians/conservators that has a certification program, but there is no outside funding for the trainings it provides, and as county budgets shrank during the past few years, training dollars were among the first to be cut. There needs to be financial support for the initial and on-going training of PG staff as there has been for law enforcement through the POST program.
4. When new legislation is proposed, legislators need to consult in a timely manner with the people who have been providing conservatorship services. Some of the legislation proposed in the wake of the recent Los Angeles Times articles was drafted with no input from members of the aforementioned state association, with the result that some of what is proposed is unworkable for PGs or would require clean-up legislation to keep from harming the very people it is designed to assist. While I do not want to get into the pending legislation in any detail at this time, I need to acknowledge that PGs are very concerned about a number of unfunded

mandates and other items we believe will result in less, more expensive service to our conservatees.

With regard to improving collaboration with the courts, I have little to say. In my county, I believe the courts and the PG collaborate well. Court personnel participate on a multi-disciplinary team with the PG and many other agencies. This has been very helpful, and I believe this arrangement should exist in all counties. At least on those cases that have come before the team, we have the sort of open communication that leads to effective collaboration. Where collaboration has been less than optimal, it has been the result of one of two causes: first, the underfunding of both court and PG which limits the time and resources each has to spend on the other; and second, the lack of a clear channel for handling complaints about conservators. Particularly on cases in which we have no legal standing, but where we have become aware of complaints about the conduct of a conservator, we have had no mechanism for forwarding the complaints to the court. In general, there needs to be a clear channel for complaints: an identified recipient, a plan for investigating complaints, and feedback to complainants so that they will know the court has taken their input seriously, even if the specific response is not shared.

In my county we had a private conservator receive a 26 year prison sentence for her criminal conduct with conservatees. There were many complaints about this conservator that apparently went unheeded for several years while she continued to defraud her clients. I believe that with what I am suggesting, this would not have happened.

Regarding improvements to the overall conservatorship system, I have several suggestions.

1. Increase the role of the Court Investigator: have them make more frequent visits, visits between accountings. Increasing the number of accountings is not the way to go; it would clog the courts, create a hardship for underfunded PG offices, and create costs that would generally be borne by the very conservatees whose estates we are trying to conserve.
2. Provide better screening of prospective conservators. Current procedures for screening, where they can be said to exist at all, lack clarity and rigor. Often we at the PG's office are obliged to screen a prospective conservator, but in order to recommend against a family member, for example, we need information the family member is not likely to share with us, and which we lack the time, resources, or authority to gather ourselves.
3. Increase the authority of PG probate investigators to gather information on prospective conservatees. Often, until we are appointed conservator, we have no right to financial and other information that could materially affect the outcome of our investigation. Our investigators need authority similar to that possessed by law enforcement to do their jobs most effectively.
4. Standardize what qualifies persons to be conservators and what would disqualify them. Currently some information is gathered by the courts, but to my knowledge, there are few if any rules as to what consequences follow from the information gathered.
5. (At the risk of flogging a dead horse....) Fund service providers at a level commensurate with the tasks they are facing. The number of people surviving to

an age where probate conservatorship may become necessary is growing at a very fast pace. Resources have not been allocated to reflect this growth in the service population.

These are my brief remarks. I will be happy to expand on any of them upon request. Thank you once again for allowing me this opportunity to be heard.

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BIO

Terrence M. Flynn, Ph.D., LCSW

Doctorate in linguistics from USC.

Masters in Social Welfare from the University of Michigan.

Licensed Clinical Social Worker since 1985.

Employed by the Riverside County Department of Mental Health since 1978. (Retired March 1, this year.) Chief Deputy Public Guardian since 1998. President of the California State Association of Public Administrators, Public Guardians, and Public Conservators 2004-2005. Board member since 2000.

Spent part of 1993 on a US Information Agency grant in Latvia assisting the government in strategic planning and establishing social services.

Conduct many trainings in mental health, including trainings on 5150, disaster work, and case management.

Worked many disasters, including the Loma Prieta, Big Bear, and Northridge earthquakes and the Katrina hurricane, among others.